

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY 8 D.C.
05 MAY 25 AM 8:11
ROBERT R. DI TROLIO
CLERK OF U.S. DIST. CT.
WD OF TN-JACKSON

MARY BETH FLOWERS,

Plaintiff,

v.

MEMPHIS SLEEP LABS, INC.,
d/b/a MID-SOUTH SLEEP DISORDER
CLINIC,

Defendant.

NO. 04-1287 T/An

ORDER GRANTING MOTION TO AMEND ANSWER

Before the Court is Defendant's Motion to Amend Answer filed on April 22, 2005. For the reasons set forth below, the Motion is **GRANTED**.

A pleading may be amended "only by leave of court . . . and leave shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). "In deciding whether to allow an amendment, the court should consider the delay in filing, the lack of notice to the opposing party, bad faith by the moving party, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party, and futility of amendment." *Perkins v. Am. Elec. Power Fuel Supply, Inc.*, 246 F.3d 593, 605 (6th Cir. 2001). After review, the Court can see no reason why the amendment should not be allowed.¹

¹While Defendant failed to file a Memorandum of Law as required by Local Rule 7.2, the Court has reviewed the Motion and Amended Answer and concludes good cause has been shown.



Moreover, Plaintiff did not respond to the instant motion as required by Local Rule 7.2(a)(2). "Failure to timely respond to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion." Local Rule 7.2(a)(2). As such, for good cause shown and because Plaintiff did not respond, the Motion is **GRANTED**. The Clerk is directed to file the Amended Answer filed contemporaneously with Defendant's Motion to Amend Answer.

IT IS SO ORDERED.



S. THOMAS ANDERSON
UNITED STATES MAGISTRATE JUDGE

Date: May 24, 2005



Notice of Distribution

This notice confirms a copy of the document docketed as number 22 in case 1:04-CV-01287 was distributed by fax, mail, or direct printing on May 31, 2005 to the parties listed.

Bradley G. Kirk
CARTER STANFILL & KIRK
25 Natchez Trace Dr.
Lexington, TN 38351

John D. Burleson
RAINEY KIZER REVIERE & BELL
105 S. Highland Avenue
Jackson, TN 38302--114

James S. Haywood
LAW OFFICES OF JAMES S. HAYWOOD, JR.
Brownsville, TN 38012

Latosha Mason Dexter
RAINEY KIZER REVIERE & BELL
105 S. Highland Ave.
P.O. Box 1147
Jackson, TN 38302--114

Honorable James Todd
US DISTRICT COURT